

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANGELINA MONICA SILVA,

Plaintiff,

vs.

Civil No.

15-603 SMV

**CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,**

Defendant.

**ORDER FOR THE AWARD OF ATTORNEY FEES PURSUANT
TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

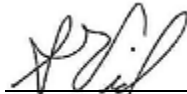
THIS MATTER is before the Court on Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support [Doc. 26], filed on November 23, 2016. **The parties having stipulated to EAJA fees in the amount of \$5,000.00 for work performed in 2015 and 2016.** The Court being otherwise fully advised in the premises, FINDS that the motion is well-taken and will be **GRANTED IN PART.**

IT IS THEREFORE ORDERED THAT the motion is **GRANTED IN PART**, and **Plaintiff is awarded \$5,000.00 in attorney fees** pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See Astrue v. Ratliff, 560 U.S. 586, 591-93 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. See 28 U.S.C. § 2412(c)(1) (2006).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986). IT IS SO ORDERED.

December 6th, 2016



THE HONORABLE STEPHAN M. VIDMAR
UNITED STATES MAGISTRATE JUDGE

Submitted By:

/s/Michael D. Armstrong

Michael D. Armstrong

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Email Approval on 12/6/16

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